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UNITED STATES DEPARTMENT OF AGRICULTURE

Bureau of Agricultural Economics

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 103

Revision

Rules and Regulations
of the
Secretary of Agriculture
Governing the
Inspection and Certification of Live Poultry
and Live Domestic Rabbits for Class, Quality,
and Condition

(Revised August 17, 1937)
(Under an act of Congress (50 Stat. 395)
approved June 29, 1937)

ORDER OF PROMULGATION

By virtue of the authority vested in the Secretary of Agriculture by a provision of the act of Congress entitled "An act making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1938" approved June 29, 1937 (50 Stat. 395) authorizing the investigation and certification of the class, quality and condition of perishable farm products, I, M. L. Wilson, Acting Secretary of Agriculture, do prescribe and promulgate, in lieu of all existing rules and regulations, the following rules and regulations governing the inspection and certification of live poultry and live domestic rabbits for class, quality, and condition, to be in force and effect on and after August 20, 1937 and to continue in force and effect so long as Congress shall provide the necessary authority therefor, unless amended or superseded by rules and regulations hereafter prescribed and promulgated under such authority.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, this 17th day of August, 1937.

(SEAL)

M. L. Wilson
Acting Secretary of Agriculture

Regulation 1. Definitions

Section 1. Words in these regulations in the singular form shall be deemed to import the plural and vice versa, as the case may demand.

Sec. 2. For the purpose of these regulations, unless the context otherwise require, the following terms shall be construed, respectively, to mean:

Paragraph 1. Act. --The following provisions of an act of Congress entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1938", approved June 29, 1937 (50 Stat. 395), or any future act of Congress conferring like authority: "For enabling the Secretary of Agriculture, independently and in cooperation with other branches of the Government, State agencies, purchasing and consuming organizations, boards of trade, chambers of commerce, or other associations of business men or trade organizations, and persons or corporations engaged in the production, transportation, marketing, and distribution of farm and food products, whether operating in one or more jurisdictions, to investigate and certify to shippers and other interested parties the class, quality, and condition of cotton, tobacco, fruits and vegetables, whether raw, dried or canned, poultry, butter, hay, and other perishable farm products, when offered for interstate shipment or when received at such important central markets as the Secretary of Agriculture may from time to time designate, or at points which may be conveniently reached therefrom, under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered: Provided, that certificates issued by the authorized agents of the Department shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained."

Par. 2. Secretary.--Secretary or Acting Secretary of Agriculture of the United States.

Par. 3. Bureau.--Bureau of Agricultural Economics of the United States Department of Agriculture.

Par. 4. Person.--Individual, association, partnership, or corporation.

Par. 5. Inspector.--Employee of the Department of Agriculture or other person authorized by the Secretary to investigate and certify to shippers and other interested parties the class, quality, and condition of products under the act.

Par. 6. Products.--Live poultry and live domestic rabbits.

Par. 7. Office of Inspection.--The office of an inspector authorized to inspect products under the act.

Par. 8. Inspection Certificate.--Certificate of the class, quality, and condition of products issued by an inspector under the act.

Par. 9. Interested Party.--Anyone having a financial interest in the products involved, including the shipper, the receiver, the buyer or the carrier, or any authorized person in behalf of such party.

Par. 10. Regulations.--Rules and regulations of the Secretary governing the inspection of live poultry and live domestic rabbits under the act.

Regulation 2. Administration

Section 1. The Chief of Bureau is charged with the administration of the provisions of the act and these regulations and is authorized to issue such instructions as he may deem proper and necessary for the conduct of the service.

Regulation 3. Where Service is Offered

Section 1. Inspection - Where made.--Products may be inspected for the purpose of the act at points indicated in paragraphs 1, 2, and 3 of this section whenever an inspector is available.

Paragraph 1. Shipping Points.--Inspections may be made wherever products are offered for interstate shipment, including farms, factories, warehouses, loading platforms, wagons, trucks, railway cars, boats, vessels, and other places where products are handled, kept, or stored.

Par. 2. Designated Markets.--Boston, Chicago, St. Louis, New York, Philadelphia, San Francisco, Newark, N. J., and Washington are hereby designated as important central markets at which products may be inspected under the act.

Par. 3. Other points.--Inspections may be made at any other points under conditions provided in regulation 4 wherever inspectors are available.

Regulation 4. Inspection Service

Section 1. Kind of service.--Inspections may be made for class, quality and condition.

Sec. 2. Who may Obtain Service.--Application for inspection may be made by a State, a municipal authority, or by any person having a financial interest in the products involved, including the shipper, the receiver, the buyer, or the carrier, or by any authorized person in behalf of such applicant.

Sec. 3. How Inspection May be Obtained.--Application for inspection may be made in writing or orally, by telephone, telegraph, or otherwise. Such application may be filed in the office of inspection or with any authorized inspector. If made orally, the inspector may require that it be confirmed in writing.

Sec. 4. Form of Application.--Application for inspection shall include the following information or such part of it as the inspector may require; (a) The date of application; (b) the identification and location of the product to be inspected; (c) the name and postoffice address of the applicant and of the person, if any, making the application in his behalf; (d) the interest of the applicant (except the State) therein; (e) the name, postoffice address, and interest of all other known parties, except carriers, interested in the product involved; (f) the shipping point and destination of the product; (g) the purpose of the inspection; and (h) such other information as may be necessary for proper identification of the product or as may be required by the inspector or the Bureau.

Sec. 5. When Application Deemed Filed.--An application for inspection shall be deemed filed when delivered to an inspector or the office of inspection.

Sec. 6. When a Second Inspection May be Had.--When an inspection has been made of a lot of live poultry which is found to be in an over-cropped condition, a second or new inspection of this lot shall not be made until the day following, except as may be provided by the instructions of the Chief of Bureau or as an appeal inspection may be made in accordance with the provisions of regulation 5.

Sec. 7. When Application May be Rejected.--Any application may, for any non-compliance with the act or any regulation thereunder or when the inspection applied for would be in conflict with any instructions of the Chief of Bureau or the cooperative agreement under which the inspection would be made or any applicable ordinance or regulation of the city or municipality in which the inspection is requested, be rejected by the inspector in charge of the office of inspection in which it is filed, and such inspector shall immediately notify the applicant by telegraph or in writing of the reasons for such rejection.

Sec. 8. When Application May be Withdrawn.--An application may be withdrawn by the applicant at any time before the service is performed, upon payment of any expenses incurred in connection therewith.

Sec. 9. Authority of Agent.--Proof of the authority of any person applying for inspection on behalf of another may be required in the discretion of the inspector.

Sec. 10. Accessibility of Products.--The applicant shall cause products for which inspection is requested to be made accessible for inspection and to be so placed as to disclose their class, quality and condition.

Sec. 11. Basis of Service.--Inspections for class, quality, and condition shall be based upon the official and tentative standards of the U. S. Department of Agriculture and be made under such conditions and in accordance with such methods as may be prescribed, or approved by the Chief of Bureau.

Sec. 12. Order of Inspection.--Inspection shall be made in so far as may be practicable in the order in which applications are received, except that precedence may be given to applications made by another branch of the Federal Government, or by a State, or municipality.

Sec. 13. Sanitary condition of Equipment.--All equipment employed for the transportation, handling and feeding of live poultry, or live domestic rabbits, including cars, coops, baskets, trucks and other equipment, in which poultry or rabbits are offered for inspection, or is handled after inspection, shall be in a reasonably clean, sanitary condition, and any equipment that is not in such condition when poultry or rabbits are inspected in it shall be thoroughly and properly cleaned and, if deemed necessary, properly disinfected after the inspected poultry or rabbits have been removed therefrom, and proper evidence of such cleaning and disinfection shall be furnished the Bureau by the applicant for inspection.

Sec. 14. Financial Interest of Inspector.--No inspector shall inspect any products in which he is directly or indirectly financially interested.

Sec. 15. Investigation on Motion of Inspectors.--An inspector may of his own motion and without the use of any force, when authorized by the Bureau, investigate the class, quality and condition of any products at such points as are provided under Regulation 3, and may issue and transmit to the shipper of such products and other parties interested therein certificates or copies thereof showing the results of such investigations. Such an inspection shall not be considered a regular inspection for the certification and approval of the products for transfer into coops or for sale.

Sec. 16. Certificate - Form of.--Certificates shall be issued on forms approved by the Chief of Bureau.

Sec. 17. Certificates - Issuance.--The inspector shall sign and issue a separate certificate for each lot or lots of products inspected by him for one applicant, unless otherwise authorized.

Sec. 18. Disposition of Certificates.--The original certificates upon issuance shall be delivered or mailed to the applicant or the person designated by him. If the shipper is known and is not the applicant, one copy shall be delivered or mailed to him. Copies may be furnished to cooperating agencies. One copy shall be filed in the office of the inspector and one copy forwarded to the Bureau. Copies of certificates shall be kept on file until disposition is ordered by the Bureau. Additional copies will be furnished on request to financially interested parties as provided in Regulation 7, Sec. 1, Paragraph 7.

Sec. 19. Advance Information.--Upon request of an applicant, all or any part of the contents of the certificate may be telegraphed or telephoned to him at his expense.

Regulation 5. Appeal Inspection

Section 1. When Appeal May be Taken.--An application for appeal inspection may be made whenever any financially interested party is dissatisfied with the findings stated in the original certificate; provided the application is made within one-fourth hour from the time the inspection was completed when the inspection was for condition, or on the same business day when the inspection was for class or quality and before the identity of the original lot of products inspected has been lost. Upon satisfactory showing of evidence of fraud, or that because of distance the time provided for filing an application for appeal inspection is insufficient, or other good cause, the applicant may be allowed to file such application after the time herein prescribed, except when the size of crops of poultry is in question.

Sec. 2. How to Obtain.--Appeal inspection may be obtained by the applicant or other person financially interested in the product by filing a request for such appeal inspection with the supervising inspector. The application for appeal shall state the reasons therefor, and may be accompanied by a copy of any previous inspection certificate, or any other information which the applicant shall have received regarding the product at the time of the original inspection. Such application may be made in writing, or orally, by telegraph, telephone, or otherwise. If made orally, the supervising inspector may require that it be confirmed in writing.

Sec. 3. Record of Filing Time.--A record showing the date and time of filing such application shall be immediately made by the receiver thereof.

Sec. 4. When Appeal May be Refused.--If it shall appear that the reasons stated in an application for appeal inspection are frivolous or unsubstantial, or the product cannot be made accessible for inspection, or these regulations or any instructions issued thereunder by the Chief of Bureau have not been complied with, the application may be rejected and the applicant shall be notified immediately in writing by the supervising inspector of the reason for such rejection, and a statement of such action shall be included in the record of such application by the official making the same.

Sec. 5. When Appeal May be Withdrawn.--An application for appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is made, upon payment of any expenses incurred in connection therewith.

Sec. 6. Order in Which Made.--Appeal inspections shall be performed as soon as possible and in the order in which applications are received. They shall take precedence over all other pending applications.

Sec. 7. Who Shall Pass Upon Appeals.--Applications for appeal inspection shall be passed upon by persons designated for the purpose by the Chief of Bureau, and such inspection shall be conducted jointly by two inspectors when practicable. No inspector shall pass upon an application for an appeal inspection involving the correctness of a certificate issued by him unless he be so authorized by the Chief of Bureau.

Sec. 8. Appeal Findings.--The inspector making an appeal inspection shall sign and issue an "appeal inspection certificate" referring specifically to all previous inspection certificates and stating the results of the last inspection. In all respects, the provisions of regulation 4 shall apply to such appeal inspection certificates, and copies of the appeal inspection certificate shall be sent to all parties to whom the last inspection certificate was furnished.

Sec. 9. Superseded Certificates.--When an inspection certificate shall have been superseded under these regulations by an appeal inspection certificate such inspection certificate shall become null and void and shall not thereafter represent the class, quality, or condition of the lot of products described therein. If the original and all copies of the superseded certificate are not delivered to the person with whom the application for appeal inspection is filed, notice of such issuance and of the cancellation of the original certificate shall be forwarded to such persons as he considers necessary to prevent fraudulent use of the canceled certificate.

Regulation 6. Licensed Inspectors

Section 1. Who May be Licensed.--Persons showing proper qualifications may be licensed by the Secretary as inspectors of products which may be inspected under the act. All such licenses shall be countersigned by the specialist in charge of the division of dairy and poultry products in the bureau, or the specialist in poultry inspection in that division, or by the supervising inspector under whose direction the licensee is to make inspections.

Sec. 2. License - Suspension of.--Any license may be suspended, pending final action by the Secretary by any official by whom it may be countersigned or by the Chief of Bureau, whenever such official shall deem such action to be

for the good of the service. Within seven days after such suspension the licensee may file an appeal in writing to the Secretary, supported by any argument or evidence that he may wish to offer in his behalf.

Regulation 7. Fees and Expenses

Section 1. Amount of, Rates, Etc.

Paragraph 1. Basis for Charges.--Fees and charges for inspection service at shipping points, designated markets, and other points, shall be based upon the actual time required to make the inspection and the time required for travel of the inspector in connection therewith between the office of inspection and the place of inspection and waiting time of the inspector if the product is not ready for inspection on arrival of the inspector, at the rate of \$2 per hour for each inspector assigned or at the rates specified under Paragraph 2 of this section, unless otherwise provided by special agreement or by supplemental schedules approved by the Chief of Bureau; provided that an additional fee of \$3 shall be charged when the inspection is made under conditions where the entire lot of the product is not readily accessible to the inspector; provided further that the Chief of Bureau may in lieu of the fixed charge of \$2 per hour or the rates specified in Paragraph 2 of this section fix other reasonable charges for the inspection of products at rates which in his judgment will cover the cost of the service; and except that inspection for Federal Government agencies shall be at actual cost.

Par. 2. Coop Fees.--For each lot of product inspected for condition, pursuant to these regulations, the fee shall be on the basis of the number of coops or baskets in such lot, as follows:

For 5 standard (3' x 6') coops or less	\$1.00
For 6 to 10 standard (3' x 6') coops	1.50
For 11 to 20 standard (3' x 6') coops	2.00
For 21 to 40 standard (3' x 6') coops	3.00
For 41 to 60 standard (3' x 6') coops	4.00
Over 60 standard (3' x 6') coops, up to a carload	5.00
For not to exceed 5 standard (2' x 3') baskets or less ...	0.25
For 6 to 10 standard (2' x 3') baskets	0.40
For 11 standard (2' x 3') baskets or more	0.04 per basket

Provided, that when baskets or coops are of larger size than the standard sizes specified above, an additional fee shall be charged for such larger size baskets or coops, based upon their size in relation to the standard sizes specified above.

Par. 3. Carlot Fee.--For each carlot of product inspected for condition, pursuant to these regulations, the fee shall be \$5.

Par. 4. Under Cooperative Agreement.--Fees for inspections made under cooperative agreement shall be those provided for by such agreements.

Par. 5. For Appeal Inspection.--Fees for appeal inspection shall be three times those for original inspections except that no fee will be charged when it is found that there was a material error in the certificate from which the appeal was taken.

Par. 6. Other Than Regular Hours.--Fees for inspections made during hours other than the regular hours of inspection or an extension of the regular hours of inspection shall be one and one-half times those for inspections made during regular hours.

Par. 7. Travel Expense, Etc.--Further charges may be made for actual traveling expenses and other items paid or incurred in connection with inspections or appeal inspections made at a place where inspector is not regularly stationed.

Par. 8. For Additional Copies of Inspection Certificates.--Except as provided by Regulation 4, Section 17, a fee of \$1 shall be charged for not to exceed three additional copies of a certificate furnished to any person financially interested in the product covered by the certificate.

Sec. 2. How Fee Shall be Paid.--Fees and other charges shall be paid by the applicant in accordance with the direction on the fee bill furnished him, and in advance if required by the inspector.

Sec. 3. Disposition of Fees.--Fees covered by Section 1 of this regulation shall be disposed of as follows:

Fees and charges for inspections made by an inspector acting exclusively for the Bureau shall be remitted promptly to the Bureau. Fees and charges for inspections made by licensed inspectors acting exclusively for the Bureau, less the percentage thereof which he is allowed by the terms of his contract of employment as compensation for his services, shall be remitted to the Bureau.

Fees and charges for inspections made under cooperative agreements with a State or other organization or agency shall be disposed of in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement as may accrue to the United States shall, when due, be promptly remitted to the Bureau.

Regulation 8. Miscellaneous

Section 1. Willful Violation, Fraud or Misrepresentation.--Any willful misrepresentation or any deceptive or fraudulent practice made or committed by any person in connection with (a) the making or filing of an application, or (b) the use of an inspection or appeal inspection certificate issued by an inspector under these regulations, or (c) the use of an official stamp, tag, seal, mark or label, or (d) any willful violation of these regulations or of the supplementary rules and instructions issued by the Chief of the Bureau, may be deemed sufficient cause for debarring the person guilty thereof from any benefits of the act.

Sec. 2. Publication.--Publications under the act and these regulations shall be made in the Service and Regulatory Announcements of the Bureau and such other mediums as the Chief of Bureau may from time to time designate for the purpose.

Sec. 3. Political Activity.--All inspectors authorized, either by appointment or license from the Secretary of Agriculture, to issue inspection certificates under the act and these regulations are forbidden, during the period of their appointment or license, to take an active part in political management

or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including temporary and cooperative employees, and employees on leave of absence with or without pay. Willful violation of this regulation will constitute grounds for dismissal in the case of appointees, and revocation of licenses in the case of licensees.

Sec. 4. Identification.--All inspectors shall have in their possession at all times Department identification cards and shall identify themselves by such cards on request.

